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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)

Working paper prepared by the Secretariat

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I. General

1. The Falkland Islands (Malvinas)[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory comprises two large islands, known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square kilometres (4,700 square miles). The Territory is situated in the South Atlantic, about 770 kilometres north-east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 kilometres east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate Territory; the Governor of the Falkland Islands (Malvinas) acts as Commissioner for South Georgia and the South Sandwich Islands.

2. According to the territorial census report of 1996, the total number of ordinarily resident population in the Territory in 1996 was 2,221. This figure is adjusted to take into account persons who reside in the Territory but who were absent during the holding of the census.

II. Constitutional and political developments

A. Constitution and Government

3. The Constitution of the Falkland Islands (Malvinas), which came into effect on 18 April 1985, vests executive power in a Governor, who is the personal representative of the British monarch, assisted by an Executive Council consisting of the Chief Executive and the Financial Secretary and three members of the Legislative Council chosen by the eight elected members from among themselves. The Chief Executive and Financial Secretary are ex officio members of both Councils and have no vote. It will be recalled that the Constitution Order of the Territory stipulates, *inter alia*, that: "whereas all peoples have the right of self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development and may, for their own ends, freely dispose of their natural resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit and international law; and whereas the realization of the right of self-determination must be promoted and respected in conformity with the provisions of the Charter of the United Nations."

4. An Electoral Ordinance was enacted in 1988 and amended in 1997. The Electoral Ordinance, as amended, and the provisions of the Constitution govern elections of members of the Legislative Council. The Falkland Islands (Malvinas) is divided into two constituencies, the town of Stanley and its neighbourhood, which make up the Stanley constituency, and the rest of the country, which makes up the Camp constituency. Prior to the amendments made by the Electoral (Amendment) Ordinance of 1997, there were four elected members for each constituency. As a result of the amendments made by that ordinance, the Stanley constituency elects three members to the Legislative Council. Only persons who are registered as electors and are 21 years of age or older are entitled to stand for election. A general election of members of the Legislative Council has to be held at intervals of not longer than four years. The most recent General Election was in October 1997 and the next election is due in October 2001. Should a seat become vacant in the meantime, a by-election for the vacant seat will take place.

5. The Constitution (Amendment) Order of 1997 introduced changes with regard to the right to vote. Section 27 (1) as amended provides, subject to the provisions of subsection (2), that a person shall be qualified to be registered as an elector for the election of members of the Legislative Council if he is a Commonwealth citizen who has attained the age of 18 years and either (a) enjoys Falkland Island (Malvinas) status; or (b) his name appeared in the Register of Electors for a constituency in force on 1 September 1997; and, in either case, was a resident in the Falkland Islands (Malvinas) on the qualifying date for the period required in order to qualify.

6. Under the Electoral Ordinance, as amended, an electoral register is prepared for each constituency every year and comes into force on 1 September for a period of 12 months. The "qualifying date" in relation to the register is 15 May of the year in question.

7. The Falkland Islands Constitution Order 1985, containing the Constitution of the Falkland Islands, came into force on 3 October 1985. The Falkland Islands Constitution (Amendment) Order 1997 came into force on 1 September 1997. A copy of the Falkland Islands Constitution (Amendment) Order 1997 and of the Falkland Islands Constitution (Amendment) (No. 2) Order 1997, which came into force in February 1998, have been submitted to the Secretariat by the administering Power.

B. Political developments

8. On 10 June 1998, the Government of Argentina issued the following press release:

> "On 10 June, 'Day of Affirmation of Argentine rights to the Malvinas Islands and the Antarctic Sector', the Argentine nation commemorates the establishment of the Political and Military Command of the Malvinas Islands and the Islands Adjacent to Cape Horn in the Atlantic Ocean, in accordance with the decree by Interim Governor Martin Rodriguez in 1829.
>
> "Since the beginning of its existence as an independent nation, the Argentine Republic has demonstrated, through actions by the Government, the firm political determination to exercise its effective sovereignty in the southern territories and maritime areas inherited from Spain.
>
> "This effective exercise of sovereignty was interrupted when, in 1833, British forces occupied the Islands, expelling the population and the Argentine authorities established there. Subsequently, Argentine citizens were prevented from settling freely or owning land in those territories.
>
> "The Argentine people and Government never accepted that act of force and today reiterate, just as in the past, their unwavering determination to regain through the peaceful means of diplomatic negotiations and in accordance with the numerous appeals by the international community, the exercise of sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas.
>
> "The Argentine claim has traditionally been supported by the countries of our region and numerous international bodies, including the General Assembly of the United Nations and the General Assembly of the Organization of American States. These forums have repeatedly requested the Governments of the Argentine Republic and the United Kingdom to resume negotiations making it possible to resolve the sovereignty dispute definitively and in a peaceful manner.
>
> "The Argentine Government reiterates its readiness to continue to seek agreements with the United Kingdom that would help to consolidate an atmosphere of cooperation in the South Atlantic. These efforts are undertaken within the framework of the commitment assumed by the Argentine Republic, and incorporated in its national constitution to respect the way of life of the inhabitants of the Malvinas Islands.
>
> "On this momentous date, the Argentine Government reaffirms its belief that the resumption of talks on the substance of the question as well as the re-establishment of communications will create a favourable framework for a peaceful and lasting resolution of the dispute."

9. Before his visit to Argentina in August 1998, United Kingdom Foreign Office Minister Tony Lloyd said at a meeting of the House of Commons: "Our position remains that we have no doubt about our sovereignty over the islands, and we remain fully committed to protecting the right of the Falkland Islanders to determine their future. There is no inconsistency between that and our real commitment to continue working with the Argentines on all other aspects of our relationship."

10. The President of Argentina, Carlos Menem, visited London at the invitation of the Prime Minister of the United Kingdom, Tony Blair, from 27 October to 1 November 1998. It was the first time an Argentine head of State had visited the United Kingdom since the 1982 war. During the visit, the President of Argentina met with Queen Elizabeth II and the Prime Minister. The President also participated at a ceremony at Saint Paul's Cathedral honouring the 255 British servicemen who had lost their lives in the South Atlantic between April and June 1982.

11. During his visit, President Menem made a statement at Canning House in Liverpool, on 28 October 1998, in the course of which he said:

> "My visit to the United Kingdom is prompted by a spirit of peace and reconciliation. Without forgetting the past, I have my eyes fixed on the future...
>
> "As President of the Argentine nation, I reiterate our firm belief in the legitimacy of our historic rights...
>
> "I want my message of peace and reconciliation to be heard clearly by the islanders. On behalf of my fellow citizens, I hold out to the islanders the hand of friendship with a view to reforging the bonds of our harmonious coexistence."

12. Addressing Parliament on 29 October, President Menem said:

> "I believe that, given the overall state of our relations, we can move forward and embark with determination on the constructive and imaginative search for ways of settling the dispute concerning sovereignty over the Malvinas Islands, South

Georgia and the South Sandwich Islands and the surrounding maritime areas in a manner guaranteed to preserve the way of life of the islanders and ensure the economic prosperity and social well-being of all who live in the South Atlantic."

13. Regarding President Menem's visit, Prime Minister Blair said:

"During President Menem's visit, British and Argentine veterans stood shoulder to shoulder and watched President Menem of Argentina lay a wreath at the Falklands War Memorial in Saint. Paul's Cathedral. It was a true act of reconciliation. It was also an important symbol of how Argentina has changed over the past 16 years or so. But equally important was President Menem's public renunciation of the use of force against the Falklands.

"I believe that on the eve of the new millennium, we can all gain from the improved relations between Britain, the Falkland Islands and Argentina. That is why I invited President Menem to Britain, in a spirit of reconciliation."

14. On 29 October 1998, Argentina and the United Kingdom issued a joint statement on cooperation, entitled "Action Agenda", which reads in part as follows:

"Each Government expressly reaffirms its known position with regard to sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands, and the surrounding maritime areas. Both Governments also reaffirm their support for the United Nations and the commitment of their respective countries to resolve their differences exclusively through peaceful means.

"Both Governments are determined to continue working together in a spirit of cooperation on all issues of mutual interest, particularly in the South Atlantic context."

15. In a New Year's message to the Falkland Islands (Malvinas), on 1 January 1999, Prime Minister Blair said:

"When I spoke to you last year I made clear my commitment to protecting your right to choose your own way of life and to ensuring your security. Both of these were at the forefront of my mind when I spoke to President Menem here in London during his visit. I told him unequivocally that the sovereignty of the islands was not for negotiation, nor was the right of you, the Falkland Islanders to determine your own future ... We can all gain from improved relations between the United Kingdom, the Falkland Islands and Argentina."

16. On 2 January 1999, the Ministry of Foreign Affairs, International Trade and Worship of Argentina issued the following press communiqué:

"On 3 January 1833, British forces occupied the Malvinas Islands, displacing their inhabitants and the Argentine authorities established there. After 166 years of illegitimate occupation, the people and the Government of Argentina reaffirm the rights of sovereignty of the Argentine Republic over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas.

"The Government of Argentina, pursuant to the objective established in the National Constitution, takes this opportunity to reiterate its unwavering determination to regain, through diplomatic negotiations, the exercise of sovereignty over the aforementioned Territories and maritime areas, while respecting the way of life of their inhabitants.

"In addition, the Government of Argentina reiterates its readiness to continue to explore with the Government of the United Kingdom ways of consolidating mutual trust and cooperation in the South Atlantic, especially the re-establishment of communications between the continental territory and the Islands, which would constitute a step towards harmonious understanding in the region.

"On this anniversary, the Government of Argentina reaffirms its belief that the resumption of negotiations on the substance of the question, in conformity with the many appeals of the international community, will contribute to the achievement of a fair and definitive settlement of the dispute."

17. Prince Charles visited Argentina from 9 to 11 March. He is the highest-ranking member of the British royal family to visit Argentina since 1982. The Prince and President Menem held private talks, at which they were reported to have spoken about the climate of reconciliation between the two countries. Prince Charles also paid homage to the 652 Argentine soldiers killed during the 1982 war at a wreath-laying ceremony in front of the monument to Argentina's war dead.

18. From 13 to 15 March, Prince Charles visited the Falkland Islands (Malvinas), where he held meetings with the Governor, members of the Executive and Legislative Council and Camp councillors. During his stay, the Prince laid a wreath at the 1982 monument.

19. On 27 May, at the end of the talks between Argentina and the United Kingdom on South Atlantic issues, both delegations issued the following joint statement:

> "British and Argentine delegations met in London from 25 to 27 May 1999 to discuss South Atlantic issues of common interest.
>
> "The delegations agreed that the formula on sovereignty recorded in paragraph 2 of the joint statement of 19 October 1989 applied to this meeting and its consequences.
>
> "Both delegations welcomed the exchange of visits of the President of Argentina in October 1998 and of His Royal Highness the Prince of Wales in March 1999. Both visits had contributed to the creation of a new spirit of understanding and reconciliation in the relationship between the United Kingdom and Argentina. The talks were held in a friendly, open and constructive atmosphere, building on the new spirit in the relationship.
>
> "The two delegations exchanged views on air links and human contacts to and from the Falkland Islands, including access by Argentines, and agreed to continue studying this matter constructively.
>
> "Both delegations agreed to continue to exchange ideas for improving cooperation on the conservation of fish stocks in the South Atlantic, especially to find ways to tackle the common menace of poaching.
>
> "Both delegations agreed that they would continue to work together to find ways of making progress over a range of South Atlantic issues of common interest. The two delegations agreed to meet again as soon as possible to discuss such issues further."

III. Mine clearance

20. In 1994, the Government of Argentina offered to assume the task of removing the mines laid in the Falkland Islands (Malvinas) by the armed forces of Argentina during the conflict of 1982. In this connection, the joint statement issued in London on 29 October 1998 (see para. 13 above) points out that "both Governments will work together to evaluate the feasibility and cost of clearing the landmines that remain in the Falkland Islands (Malvinas)". The statement also indicated that both Governments "look forward to the early conclusion of a memorandum of understanding setting out how this assessment will be carried out".

IV. Economic conditions

A. General

21. According to the administering Power, development in the Territory has been slow because there are few natural resources, the population is small and the Territory is remote from external markets. Nevertheless, the pace of economic development has accelerated dramatically since 1982; this rapid growth resulted initially from the influx of British Government aid, but more recently from the development of fisheries. The size of the fisheries' revenues and their subsequent investment have enabled improvements to be made in the infrastructure and the promotion of tourism and other enterprises, which will help to diversify the economy.

22. However, the administering Power points out that problems are appearing: government revenue is fully committed; the growing sectors of retail, recreation and construction are dependent on expenditure; agriculture is claiming financial assistance from the State; and tourism has yet to take off.

B. Public finance

23. The Territory's financial year runs from 1 July to 30 June. The statement showing total receipts and payments for the year ended 30 June 1998 shows a total revenue of £39,607,691 and a total expenditure of £54,257,570.

C. Agriculture, land tenure and livestock

24. During the years 1980 to 1996, the territorial Government implemented a farms subdivision programme. As a result, previously very large farms were subdivided and sold to local farmers. Thus, the number of farms increased from 36 in 1980 to the present 90. Another result of the subdivision programme was the transfer of majority overseas land ownership to the islanders. During 1980–1996, overseas land ownership in the Territory decreased from 76 to 1.23 per cent.

25. The Department of Agriculture continues to be responsible for this sector of the economy. The research staff of the Department carries out research on the plants and animals of the Territory with a view to synthesizing

improved systems of production. The Department has developed a multidisciplinary approach to assist the landholders. Specialists in agronomy, sheep husbandry and veterinary services, as well as an agricultural economist, assist farm management and, in particular, provide support to new farmers. The agricultural budget for 1998/99 totalled £1,167,400.

26. The land is devoted for the most part to sheep ranching to produce wool. Statistics of stock numbers and wool produced are supplied annually by farmers in accordance with the Livestock Ordinance. Expansion and improvement of agriculture and its practice are encouraged by the territorial Government.

D. Fisheries

27. Squid, including *Loligo* and *Illex*, are the mainstay of the territorial fisheries and economy. In 1998, the total catch of all species was 210,202 tons, including 84,954 tons of *Illex Argentines* and 51,417 tons of *Loligo gahi*, both of which represent 65 per cent of the total reported catch. The annual ordinary revenue from fishing licence fees was £17 million, which represents over 50 per cent of the total annual ordinary revenue of the territorial Government.

28. Government expenditure on fisheries in 1997/98 amounted to £4.3 million. Fisheries protection and aerial surveillance accounted for 65 per cent of this amount, with a further 17 per cent directed to support scientific research on *Illex*, *Loligo*, commercial finsfish species and stock assessment techniques.

29. The South Atlantic Fisheries Commission held its fourteenth meeting at Buenos Aires on 12 and 13 November 1998. At the conclusion of the meeting it issued the following statement:

> "The fourteenth meeting of the South Atlantic Fisheries Commission took place at Buenos Aires on 12 and 13 November 1998. The British delegation was led by the Head of the Overseas Territories Department, John White, and the Argentine delegation was led by the Legal Counsel, Orlando R. Rebagliati.
>
> "The meeting took place in a friendly and constructive atmosphere.
>
> "The British and Argentine delegations agreed to apply to the meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas agreed by the British and Argentine Governments in paragraph 2 of the joint statement issued at Madrid on 19 October 1989.
>
> "The South Atlantic Fisheries Commission welcomed the reports of the Scientific Subcommittee on its eleventh and twelfth meetings, which were respectively held in London on 16 and 17 June 1998 and in Mar del Plata on 9 and 10 November 1998. It took note of the cooperation between the Instituto Nacional de Investigación y Desarrollo Pesquero (INIDEP) and the Imperial College, and of the progress made on joint research. The Commission expressed its satisfaction at the progress made by the Subcommittee and agreed to recommend the Subcommittee's proposals to the Governments.
>
> "Both delegations expressed their commitment to the conservation of stocks in the South Atlantic and agreed to recommend to Governments the continuation of cooperation to reach a greater level of scientific understanding on the most significant offshore species in the area of cooperation.
>
> "The Commission, noting the concerns raised by the Subcommittee on the future recruitment to the *Illex* stock due to unusual oceanographic features this year, agreed to recommend to Governments that every effort be made to maintain conservation measures that would safeguard the sustainability of the *Illex* stock. As in previous years, a joint research cruise will take place in 1999 to evaluate the level of the *Illex* squid stock.
>
> "Both delegations reaffirmed their support for the early warning system and the need to improve the exchange of real time data on fishing operations. The Commission agreed to recommend to their Governments that every effort be made to ensure a level of 40,000 tons of *Illex* spawning stock biomass at the end of the fishing season.
>
> "The Commission noted the concerns expressed by the Subcommittee on the status of the Southern Blue Whiting stock and agreed to recommend to Governments that a precautionary approach be applied to the fishery. It further agreed that an extended workshop on the Southern Blue Whiting should take place in conjunction with the next meeting of the Subcommittee in order to achieve a more comprehensive assessment of the actual status of the stock and to plan the joint research cruise for Southern Blue Whiting in the austral spring.
>
> "The Argentine delegation made reference to the concern of the Argentine Government about the

situation created by the British decision with respect to the area described in the annex to the Joint Statement of 26 November 1990 and the area to the west of it. It expressed its hope that this matter be resolved. The British delegation re-stated its position.

"The two parties will maintain contacts through diplomatic channels with a view to agreeing on the place and dates of future meetings of the Commission."

E. Tourism

30. The number of persons arriving and departing the Territory continued on an upward trend during 1998. Some 10,140 persons arrived during 1998. Of these, 8,816 came by air and 1,324 by sea. About 3,430 were residents; visitors totalled 2,790. On the other hand, 9,768 persons departed. However, the upward trend was expected to be negatively affected by the suspension of a weekly scheduled air service between the Falkland Islands (Malvinas) and Chile operated by the Chilean national airline, which had initiated flights in August 1997. Flights were suspended in March 1999.

F. Oil

31. The South-West Atlantic Hydrocarbons Commission held its fifth meeting at Buenos Aires on 30 July 1998. It issued the following statement on the same date:

"The fifth meeting of the South-West Atlantic Hydrocarbons Commission took place at Buenos Aires on 30 July 1998. The British delegation was led by Peter Westmacott, Director of the Americas Command, at the Foreign and Commonwealth Office, and the Argentine delegation by Ambassador Eduardo Airaldi, Under-Secretary for Foreign Policy, at the Ministry of Foreign Affairs, International Trade and Worship. A meeting of the Subcommittee for the Special Cooperation Area took place on 27 and 28 July.

"The British and Argentine delegations agreed that there applied to the meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas, set out in paragraph 1 of the Joint Declaration of 27 September 1995.

"The Joint Commission expressed satisfaction at the progress made by its Subcommittee on various issues marking scheme and evaluation procedure for bids, harmonization of licence terms and conditions, health and safety at work, environmental issues with a view to the launching of the licensing round in the Special Cooperation Area. The Joint Commission confirmed the Subcommittee's recommendation to adopt a common map projection for the Special Cooperation Area.

"The Joint Commission gave particular consideration to issues related to the protection of the marine environment of the South-West Atlantic. It agreed that more work would be required in order to complete the collection of data necessary to reach a better understanding of the marine environment in the Special Cooperation Area and the rest of the area covered by the Joint Declaration.

"The Joint Commission confirmed its commitment to an early launch of the licensing round in the Special Cooperation Area. It noted that it was important to maintain the present momentum of work to achieve this objective. The Joint Commission recommended that further inter-sessional work was necessary on the proposed marking scheme for bids, harmonization of licence terms and conditions, future environmental work, health and safety issues and taxation. The next meeting of the Subcommittee will take place in London early in December 1998.

"Both sides agreed on the need further to study proposals for joint scientific research projects, and they concurred in developing, during the inter-sessional period, the coordination of joint activities.

"Both sides discussed ways of cooperating over the promotion of the exploration for and exploitation of hydrocarbons in the maritime areas of the South-West Atlantic subject to a controversy on sovereignty and jurisdiction. They noted the importance of continuing to share information relevant to the conduct of this work and their common interest in developing cooperation in the commercial field. They also reiterated their commitment to create the conditions for substantial participation in activities by companies from the two sides.

"The Joint Commission was pleased with the significant progress that had been made since their last meeting. Joint work was going forward in a cordial and constructive atmosphere. The next meeting of the Joint Commission is planned for London early in December 1998."

32. The South-West Atlantic Hydrocarbons Commission held its sixth meeting in London on 10 December 1999. It issued the joint press statement on the same day:

"The sixth meeting of the South-West Atlantic Hydrocarbons Commission took place in London on 10 December 1998. The British delegation was led by Peter Westmacott, Director of the Americas Command, at the Foreign and Commonwealth Office, and the Argentine delegation by Ambassador Eduardo Airaldi, Under-Secretary for Foreign Policy, at the Ministry of Foreign Affairs, International Trade and Worship. A meeting of the Subcommittee for the Special Cooperation Area took place on 8 and 9 December.

"The British and Argentine delegations agreed that there applied to the meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas, set out in paragraph 1 of the Joint Declaration of 27 September 1995.

"The Joint Commission expressed satisfaction at the progress made by its Subcommittee in working out arrangements for the launch of a licensing round in the Special Cooperation Area. It noted that there is an encouraging number of points of principle on which both sides agree.

"The Joint Commission gave particular consideration to issues related to the protection of the marine environment of the South-West Atlantic. It agreed that more work would be required in order to complete the collection of data necessary to reach a better understanding of the marine environment in the Special Cooperation Area and the rest of the area covered by the Joint Declaration. In order to achieve this objective, the Joint Commission had a preliminary exchange of views on future environmental works.

"The Joint Commission confirmed its commitment to a launch of a licensing round in the Special Cooperation Area. It noted that it was important to maintain the present momentum of work to achieve this objective. The Joint Commission recommended that further inter-sessional work was necessary on the proposed marking scheme for bids, health and safety issues, harmonization of license terms and conditions, future environmental work and taxation. The next meeting of the Subcommittee will take place in Buenos Aires in the first half of 1999.

"Both sides agreed to give further consideration to proposals for joint scientific research projects. The Joint Commission noted the need to develop coordination of joint activities during the inter-sessional period.

"Both sides discussed ways of cooperating over the promotion of the exploration for and exploitation of hydrocarbons in the maritime areas of the South-West Atlantic subject to a controversy on sovereignty and jurisdiction. They noted the importance of continuing to share information relevant to the conduct of this work, and their common interest in developing cooperation in the commercial field. They also reiterated their commitment to create the conditions for substantial participation in activities by companies from the two sides.

"The Joint Commission was pleased with the progress that had been made since their last meeting. Joint work was going forward in a cordial and constructive atmosphere. The next meeting of the Joint Commission is planned for Buenos Aires in the first half of 1999."

G. Transport, communications and other basic facilities

33. In 1996/97, Cable and Wireless upgraded all VHF telephones to microwave. Cable and Wireless and the territorial Government jointly funded these improvements. A new earth station offering access to the Internet was commissioned in 1997.

34. The local Falkland Islands Broadcasting Service continued to provide programming within the 24-hours-a-day service agreed upon with the British Forces Broadcasting Services. Television transmissions are received by most of the islanders from the British Forces base at Mount Pleasant. The programmes are recorded by the British Broadcasting Corporation and Independent Television and transmitted via satellite. Since 1994, a privately funded satellite service of the Cable News Network broadcasts was introduced and customers may now avail themselves of an expanded satellite service using individual satellite dishes.

35. The territorial Government operates an internal civil air service using twin engine islander aircraft. They carry passengers, mail and medical patients between the island settlements and Stanley on pre-booked flights. An international airport at Mount Pleasant was opened in May 1985, capable of taking long haul, wide bodied jet aircraft.

There are Ministry of Defence flights to and from the United Kingdom twice a week from Mount Pleasant Airport. Royal Air Force Search and Rescue helicopters based at Mount Pleasant assist with emergencies on land and from vessels at sea in the proximity of the islands. The Chilean airline Lan Chile, which linked the Falkland Islands (Malvinas) with Punta Arenas in southern Chile and Santiago, suspended its services in March 1999 (see para. 30 above).

36. There is a shipping service between the United Kingdom and the Falkland Islands (Malvinas) with cargo vessels arriving approximately every month. Inter-island sea transport is effected by a coastal cargo vessel operated by a local shipping company.

37. The total length of roads in the Territory outside Stanley (on East and West Falkland) continues to increase and has now reached 500 kilometres (an increase of 50 kilometres per year) of which 10 per cent is bitumen surfaced. The remainder are all-weather roads with a gravel surface. Road construction is ongoing, using both internal resources and contractors.

38. During the period under review, the Government of Argentina maintained its position that the restoration of communications between the mainland and the Falkland Islands (Malvinas) continued to be a primary objective, since improved links would produce commercial and economic benefits for the entire region, by creating the necessary framework for achieving a greater understanding between the inhabitants of the region and for serving their interests. In this respect, the Government of Argentina offered the use of its transport infrastructure and a humanitarian flight to assist in a recent medical emergency.

H. Banking

39. The Standard Chartered Bank of the United Kingdom has been operating in Stanley since December 1983. Both British and local coinage is used, together with local currency notes. There is parity between the United Kingdom and Falkland Islands (Malvinas) currency.

I. Public works

40. The Public Works Department remained under pressure with a significant capital works programme and a heavy maintenance commitment in many areas. The shortage of labour arising from full employment has affected the programme for new works and maintenance by impacting on both the Department and its contractors.

41. A major project undertaken in 1998 was the redevelopment of Pony's Pass Quarry. The old crushing and screening plant was removed and a new, modern processing plant capable of producing up to 200 tons per hour of crushed aggregates was erected at a capital investment of £1.1. million. The quarry has supplied aggregates to major projects, including East Stanley Development and the Abattoir access road, and is expected to produce in excess of 75,000 tons a year.

42. Road construction continued at a fast rate, with successful completion of the road to Greenfield from Johns Brook, across particularly difficult terrain. Work is now ongoing on the road to Bombilla from Queens Brook. On West Falkland Gordon Forbes Construction (Falklands) Ltd. completed the road from Hill Cove to Roy Cove and made a start on the section towards Main Point. In Stanley, surfacing of the roads on the East Stanley development site commenced.

V. Social conditions

A. General

43. According to the administering Power, during the period under review, there have been no complaints of discrimination on the basis of race or religion. The Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms has been extended to the Falkland Islands (Malvinas) by the administering Power. The extension of the Convention includes the right of an individual who alleges that his human rights have been transgressed and who has exhausted all other remedies to petition the European Court of Human Rights. Further, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under these instruments. As in the United Kingdom, the European Convention and the International Covenants do not themselves have the force of law in the Territory. However, the rights provided by them are protected by the Constitution and the provision of safeguards within the laws applying to the Territory, distinct from, but in conformity with, the Covenants. The common law of the United Kingdom applies in the Falkland Islands (Malvinas) except insofar as it is inconsistent with any enactment of the law applying to the Falkland Islands (Malvinas).

44. The right to life is recognized and protected by the Constitution and the laws. The death penalty has been abolished, except for treason and crimes of piracy involving violence (there have never been any cases of such crimes).

45. There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women has been applied by the United Kingdom in the Falkland Islands (Malvinas) with the agreement of the territorial Government. The fourth periodic report required under the terms of that Convention in relation to the Falkland Islands (Malvinas) has been submitted by the Government of the United Kingdom to the United Nations in accordance with the terms of the Convention (CEDAW/C/UK/4/Add.1). The Sex Discrimination Ordinance 1998 was enacted during the period under review.

B. Public health

46. According to the administering Power, the general state of health and nutrition of the population and the standard of medical care in the Territory are similar to those in North America and Europe.

47 A Health and Safety at Work Committee is in the process of reviewing all government departments and advising on changes to improve health and safety. There is no private system of medical care. The total expenditure of the Medical Department on all aspects of health care and public health for 1997/98 is as follows: recurrent expenditure, £2,983,720; special expenditure, £48,800; and capital expenditure, £86,000.

48. All civilian medical services in the Falkland Islands (Malvinas) are based at the King Edward VII Memorial Hospital in Stanley. This joint civilian-military hospital was opened in August 1987. The hospital has 28 beds, including 2 for maternity patients and 2 for intensive care. There are facilities to deal with all acute medical and surgical conditions. A full range of primary care services is provided to the civilian population, military personnel stationed in Stanley and the foreign fishing fleets around the Territory. There is a visiting service to the outlying farm settlements which involves the doctors, midwives and health-care visitors.

49. Vital health statistics for 1996 and 1997 are as follows: there were 21 births in 1996 and 29 in 1997; the number of total deaths was 19 in 1996 and 12 in 1997; and there were two deaths of infants under one year old in 1996 and none in 1997.

C. Social security and welfare

50. Medical and dental treatment and drugs are free to all residents and citizens of the United Kingdom. The Falkland Islands Retirement Pension provides for mandatory fixed weekly contributions by all employers and employees between the ages of 17 and 64. The Falkland Islands Pensions Scheme Ordinance 1997 commenced during 1998. The scheme provides a national defined contribution vehicle through which employers, self-employed individuals and other individuals in the Territory can make contributions under employer-employee agreements or voluntarily during their working lives and receive a pension upon retirement.

51. A system of social welfare grants and pensions is in operation to deal with cases of hardship and disability. Expenditure for the financial years 1996 and 1997 was £49,000.

E. Housing

52. In cooperation with the administering Power, the territorial Government completed a programme of "general needs" housing construction and is now concentrating resources on the provision of fully serviced plots for self-builders and small local companies.

53. The Planning Ordinance of 1991 governs development. The legislation is structured to impose stricter controls on development in Stanley than in the rural areas.

54. The majority of the houses in Stanley are privately owned. The Government owns a number of houses that it rents to government employees and other residents of Stanley. The Government recently sold a large part of its housing stock to its tenants, at advantageous prices and on low rate loans.

VI. Educational conditions

55. The educational system of the Territory, governed by the Educational Ordinance of 1989, is the responsibility of the Director of Education, who is an officer of the Falklands Islands (Malvinas) Government. He is advised by the Education Board.

56. Education is compulsory for all children between the ages of 5 and 16 years. The territorial Government bears all the costs of materials, books and equipment.

57. Outside Stanley, attendance at settlement schools is compulsory for children who live within two miles of the school. Settlement schools owned by the farms now have government employed teachers. Education in the Camp is provided by the Government at two settlement schools, telephone and radio lessons from three centres, and by travelling teachers who are mostly trained at the primary level. There is no formal education at the senior level in the Camp, and children over the age of 10 are encouraged to move to Stanley in preparation for senior school.

58. In Stanley there are two schools. In the rural areas, there are approximately 42 children of school age living in some 22 scattered farm settlements. In two of these settlements, North Arm and in Port Howard, the territorial Government provides qualified teachers. Other settlements are visited on a regular basis by qualified government itinerant teachers.

59. Expenditure on education for 1998 and 1999 is estimated at £3.33 million. The cost of overseas training for further higher education is estimated at £492,000.

VII. Other developments

60. On 18 November 1998 and 13 January, 17 February and 17 March 1999, four groups of next-of-kin of Argentine casualties of the 1982 conflict, buried in the Falkland Islands (Malvinas), visited the Territory. The arrangements for those visits of a humanitarian nature took place following discussions between Argentina and the United Kingdom. During the visits, the groups, consisting of 15 persons each, accompanied by a priest, visited the cemetery where the Argentine casualties are buried and attended religious services.

VIII. Participation in international organizations and arrangements

61. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the British Dependent Territories Association. It also takes part in the work of multilateral organizations concerned with the exploitation and preservation of marine resources in the South Atlantic.

IX. Consideration by the United Nations

A. Special Committee

62. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 1492nd meeting, on 6 July 1998. At its 1487th meeting, on 29 June 1998, the Special Committee had granted requests for hearing to Norma Edwards and Sharon Halford of the Legislative Council of the Falkland Islands (Malvinas), as well as to Maria Angelica Vernet, Enrique Pinedo and Alejandro Betts, who made statements at the 1492nd meeting on 6 July 1998 (see A/AC.109/SR.1492).

63. At its 1492nd meeting, the Special Committee acceded to the requests of the delegations of Argentina, Brazil and Paraguay to participate in the consideration of the item.

64. At the same meeting, the representative of Chile introduced, on behalf of Bolivia, Cuba, Papua New Guinea and Venezuela, a draft resolution on the question (A/AC.109/L.1874).

65. At the same meeting, the Minister for Foreign Affairs, International Trade and Worship of Argentina made the following statement:

> "This Special Committee and the General Assembly have recognized on many occasions that the question of the Malvinas Islands is a particular and special case which is unlike the situation of the other Non-Self-Governing Territories.
>
> "Resolution 2065 (XX) and other, subsequent, resolutions make it clear that the international community recognizes the existence of a dispute over sovereignty between Argentina and the United Kingdom, a dispute which must be settled through bilateral negotiations. Likewise, resolution 3160 (XXVIII) states that the conflict of sovereignty must be resolved before the colonial situation can be settled. To proceed otherwise in this matter would be to reward the act of usurpation which caused the split in the territorial integrity of the Argentine Republic.
>
> "Through these pronouncements, the General Assembly has spelled out very clearly that the principle of self-determination does not apply to the question of the Malvinas Islands, a doctrine which was confirmed by the General Assembly itself in 1985 when it rejected a United Kingdom amendment in which that principle was incorporated.

"...

"The principle of self determination applies only to peoples subjected to a colonial Power. In the case of the Malvinas Islands, it is obvious that the inhabitants are descended from the settlers who were transplanted illegally to those Territories by the occupying Power in the nineteenth century after the pre-existing Argentine population had been expelled. To offer that population, which enjoys full British citizenship, the right to self-determination would be tantamount to agreeing to its arbitration of a territorial dispute to which its country is a party.

"...

"The peaceful vocation of my country has been repeatedly affirmed by successive democratic governments and was incorporated in the Argentine National Constitution in 1994.

"Respect for the way of life of the islanders also has constitutional force. This is a pledge which, as in previous years, I wish to repeat solemnly in this forum.

"...

"We are confident that the British Government, in deference to the many requests of the international community and encouraged by the favourable framework of the bilateral relations, will be willing to sit down at the negotiating table and engage in a frank dialogue in which we can exchange our views on all aspects of the dispute."

66. At the same meeting, the representative of Brazil, on behalf of the States members of the Southern Cone Common Market (MERCOSUR) (Argentina, Brazil, Paraguay and Uruguay) and of Bolivia and Chile, made a statement in which he informed the Committee that he wished to reiterate the terms of the Declaration on the Malvinas adopted at the tenth meeting of Presidents of the States members of MERCOSUR, in 1996, which reads as follows:

"The Presidents of the States members of MERCOSUR and the Presidents of the Republics of Bolivia and Chile reaffirm their support for the legitimate rights of the Argentine Republic in the dispute concerning sovereignty over the Malvinas. They also note the interest of the hemisphere in a prompt settlement of the protracted dispute between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over those Territories in accordance with the resolutions of the United Nations and the Organization of American States."

67. During the debate on the question, the representative of Fiji said that his delegation believed that the issue of sovereignty over the Falkland Islands (Malvinas) was beyond the responsibility of the Special Committee and was, therefore, *ultra vires* of its mandate. The issue for the Special Committee was one of decolonization, not one of sovereignty. The future of the peoples of Non-Self-Governing Territories must be decided by the people themselves. The representative of Venezuela said that his delegation supported the draft resolution in the belief that it would contribute to finding a solution to the dispute between Argentina and the United Kingdom. The representative of Cuba reaffirmed his Government's support for the Government of Argentina over the Territory. As far as Cuba was concerned, Argentina's sovereignty over the Territory was beyond dispute. He hoped the dispute would be resolved as quickly as possible and that the position of the islanders should also be taken into account. The representative of Bolivia said his country supported the Argentine claim of sovereignty over the Territory, hoping that a peaceful and lasting solution could be found. The representative of China similarly stated that his country advocated a peaceful settlement of the dispute and hoped that the two countries would implement the General Assembly's resolutions on the question as soon as possible, and that they would do so through negotiations. The representative of the United Republic of Tanzania appealed to Argentina and the United Kingdom to speed up negotiations by the year 2000.

68. At the same meeting, the Special Committee adopted the draft resolution without a vote as resolution A/AC.109/2122. Following the adoption of the resolution, the representative of Sierra Leone made a statement in explanation of position in which he said that the resolution should make appropriate reference to the important issue of self-determination. As the Special Committee was aware, there was no alternative to that principle. The representative of Grenada said that his delegation hoped the dispute could be resolved through dialogue to the good of all the parties involved, and along the lines recommended by the Secretary-General.

B. General Assembly

Position of the Government of Argentina

69. During the general debate at the fifty-third session of the General Assembly, the Minister for Foreign Affairs, International Trade and Worship of Argentina, in the course

of his statement at the 8th plenary meeting, on 21 September 1998, reiterated the position of his Government as follows:

> "Unfortunately, there remains an important unresolved issue in the South Atlantic: the sovereignty dispute between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland over the Malvinas Islands, a dispute whose existence has been unequivocally recognized in many resolutions of the General Assembly and of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, as well as in various other international forums. I reiterate, with the same conviction as always, the legitimate and well-founded rights of Argentina in that long-standing dispute. And, with the same conviction as always, I urge the United Kingdom to heed the call of the international community and observe United Nations resolutions calling upon both Governments to resume negotiations on all aspects of this question.
>
> "The end of the cold war showed us that far more complicated problems have been resolved through frank, open dialogue and with a determination to reach a mutually acceptable agreement. I see no reason why the question of the Malvinas Islands should be an exception. Proceeding on firm footing, we have rebuilt our bilateral relationship and, for the benefit of the Argentine and British peoples, have strengthened political, trade and cultural ties. Evidence of this is the visit which President Carlos Menem is to make to the United Kingdom in the near future, for which both parties are engaged in enthusiastic preparations and which has generated high expectations at all levels.
>
> "Similarly, we have left behind the misgiving and resentments of the past, learning from our mistakes and creating a climate of mutual trust in the South-West Atlantic, which is today enabling us to cooperate in the conservation of fishery resources and in exploration for hydrocarbons. That cooperation renders still more incomprehensible today's lack of communication between the islands and the mainland. There are few places in the world with such an unnatural situation. It is beyond doubt that restoring direct ties between the mainland and the islands would contribute to resolving the problem. We have no doubt about this.
>
> "Once again, I expressly reiterate Argentina's sincere desire to pursue a frank dialogue without preconditions. We hope that the British Government understands the full meaning of our offer and that it will respond accordingly. To the islanders I reiterate our unwavering commitment to full and unconditional respect for their way of life, their culture and their institutions. Our national constitution so provides, and that is the desire of the Argentine people."[2]

70. That position was reaffirmed by the representative of Argentina in a statement made in exercise of the right of reply to the statement made by the representative of the United Kingdom (see para. 71 below) at the 7th plenary meeting of the fifty-third session of the General Assembly on 21 September 1998.

Position of the administering Power

71. In his statement at the 7th plenary meeting, on 21 September 1998, the Prime Minister of the United Kingdom made no reference to the question of the Falkland Islands (Malvinas). However, at the 8th plenary meeting, speaking in exercise of the right of reply to the remarks of the Minister for Foreign Affairs, International Trade and Worship of Argentina (see para. 69 above), the representative of the United Kingdom made the following statement:

> "May I respond briefly to the remarks made earlier today by the Foreign Minister of Argentina concerning the Falkland Islands.
>
> "I welcome the Foreign Minister's references to the high level of cooperation between the United Kingdom and Argentina which increasingly characterizes our bilateral relationship. The British Government sincerely hopes that the progress which is being achieved will be built on and developed, and in that regard looks forward with pleasure to the visit which President Menem will pay to the United Kingdom later this year.
>
> "The British Government does not accept the Foreign Minister's remarks about sovereignty. We have no doubt about Britain's sovereignty over the Falkland Islands and the other British dependencies in the South Atlantic.
>
> "In the Falkland Islands we must heed the wishes of the people. The elected representatives of the islanders expressed their views clearly when they visited the United Nations for the debate in the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on 6 July. They asked the Committee to recognize that they, like any other democratic people, should be

allowed to exercise the right of self-determination. As the democratic voice of the Falkland Islands people they reiterated their view that they did not want to be part of Argentina.

"Despite our differences with Argentina on the subject of sovereignty, we maintain a constructive dialogue with the Argentine Government on matters such as hydrocarbons, development and fisheries in the South Atlantic. We continue to hold discussions on these issues on a regular basis, while maintaining our position regarding sovereignty over the Falklands, and value these practical steps to develop United Kingdom-Argentine cooperation."[2]

Contribution by other Member States

72. During the general debate on decolonization items in the Special Political and Decolonization Committee (Fourth Committee) on 5 October 1998, the representative of Panama, speaking on behalf of the Rio Group, said that the States members of the Rio Group reaffirmed their conviction that the excellent bilateral relations between the Governments of the Argentine Republic and the United Kingdom would make it possible to find a peaceful and lasting solution to the dispute between the two countries over sovereignty of the Falkland Islands (Malvinas), Georgia and the South Sandwich Islands, in accordance with the relevant resolutions of the General Assembly and the Special Committee (see A/C.4/53/SR.3, para. 49).

73. At the same meeting, the representative of Uruguay said his delegation welcomed the fact that the Governments of Argentina and the United Kingdom were endeavouring to reach a satisfactory solution to the problem of the Falkland Islands (Malvinas).

74. At the 6th meeting of the Fourth Committee, on 12 October 1998, the representative of Brazil, speaking on behalf of the States members of MERCOSUR and Bolivia and Chile, said that it was encouraging that Argentina and the United Kingdom had markedly strengthened their bilateral relations. He read out the Declaration on the Malvinas adopted at the tenth meeting of the Presidents of the States members of MERCOSUR, Bolivia and Chile, in which they reaffirmed their support for the legitimate rights of Argentina and called for a rapid settlement of the question in accordance with resolutions of the United Nations and the Organization of American States (see para. 65 above). At the same meeting, the representative of Chile said that his delegation remained convinced that the search for a peaceful and negotiated solution between Argentina and the United Kingdom on the question of the Falkland Islands (Malvinas) was the only possible option.

Action by the General Assembly

75. At its 50th plenary meeting, on 2 November 1998, the General Assembly decided to defer consideration of the item entitled "Question of the Falkland Islands (Malvinas)"and to include it in the provisional agenda of its fifty-fourth session (decision 53/414).

X. Consideration by other intergovernmental organizations and international forums

76. On 2 June 1998, the General Assembly of the Organization of American States (OAS) adopted a Declaration on the question of the Malvinas Islands (AG/DEC/17 (XXVIII–O/98), which reads as follows:

"*The General Assembly*,

"*Considering* its repeated statements that the question of the Malvinas Islands is a matter of enduring hemispheric concern;

"*Recalling* its resolution AG/RES.928 (XVIII–O/88), adopted by consensus on 19 November 1988, which requests the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume negotiations in order to find, as soon as possible, a peaceful solution to the sovereignty dispute;

"*Bearing in mind* that, in resolution AG/RES/1049 (XX–O/90), it expressed its satisfaction with the resumption of diplomatic relations between the two countries and that, in its declaration AG/DEC.5 (XXIII–O/93), it emphasized the excellent state achieved in their bilateral relations; and

"*Having heard* the presentation by the head of delegation of the Argentine Republic,

"*Welcomes* the reaffirmation of the will of the Argentine Government to continue exploring all possible venues for peaceful settlement of the controversy and, in particular, its positive views concerning the inhabitants of the Malvinas Islands; and

"*Decides* to continue to examine the question of the Malvinas Islands at its subsequent session until a definitive solution is reached thereon."

77. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) at OAS was stated in a letter dated 13 November 1995 from the Permanent Observer Mission of the United Kingdom to OAS addressed to the Chairman of the Permanent Council of OAS:

> "The position of the British Government on the question of the Falkland Islands is well known and remains unchanged. It was, for example, set out most recently by the British delegation in the United Kingdom right of reply to the statement to the United Nations General Assembly by the Argentine Minister for Foreign Affairs on 27 September. I am sure you will understand why the United Kingdom cannot accept the various resolutions and declarations adopted by the General Assembly of the Organization and referred to in the preamble and operative paragraph 1 of resolution 655 (104/95). I am sure that this matter will not inhibit the fruitful cooperation on a wide range of issues which we all desire."

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations on 17 May 1999, as well as from the official documents of the Government of Argentina.

[2] See A/53/PV.8.